

STANDARD WEIGHTS FOR LOAVES OF BREAD

JUNE 8, 1926.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. HAUGEN, from the Committee on Agriculture, submitted the following

REPORT

[To accompany H. R. 9096]

The Committee on Agriculture, to whom was referred the bill (H. R. 9096) to establish standard weights for loaves of bread, to prevent deception in respect thereto, to prevent contamination thereof, and for other purposes, having considered the same, report thereon with a recommendation that it do pass with the following amendments:

On page 2, line 10, strike out the period and insert in lieu thereof a comma and the following: "or to bread manufactured principally for use in the treatment of individuals having diabetes or other diseases."

On page 5, in line 16, strike out the words "by destruction or sale" and the comma.

LEGISLATIVE HISTORY

The original Federal bread act (H. R. 4533, 68th Cong.) was introduced in January, 1924, referred to the Committee on Agriculture of the House, and hearings were held on February 18 and 19, 1924, also on March 3 and May 5, 1924. On April 14, 1924, the Supreme Court of the United States handed down a decision in the case of *Jay Burns Baking Co. v. Charles W. Bryan*, Governor of the State of Nebraska, declaring the Nebraska bread law unconstitutional on account of too small a tolerance being allowed in the measure. This caused a redrafting of the Federal bread bill so as to avoid a conflict with the Supreme Court decision, and the redraft was submitted April 30, 1924, in H. R. 8981 (68th Cong.) and was reported favorably to the House June 5, 1924 (Rept. No. 990, 68th Cong.), but was not reached for consideration.

The bill reported herewith (H. R. 9096) is identical to the bread bill reported in the Sixty-eighth Congress with the exception of the weight tolerance prescribed in section 4. The bill in the Sixty-eighth Congress allowed a uniform tolerance of $3\frac{1}{2}$ ounces per pound in excess of the standard weights, whereas the bill reported herewith allows a tolerance ranging from $2\frac{1}{2}$ ounces to 7 ounces in excess of the standard weights, depending upon the size of the loaf.

Due to the fact that rather extensive hearings had been held on the bread bill in the Sixty-eighth Congress, the committee deemed it necessary to hold but a brief hearing on the present measure. At the hearings on the bill in the Sixty-eighth Congress the Department of Agriculture by their appointed representative approved the measure, and also representatives from the Department of Commerce, each having made a thorough study of the measure and each aiding in the draft of the bill. It might be added that the two departments collaborated in the redraft of the measure after the decision of the Supreme Court, and the Solicitor of the Department of Agriculture stated that the measure will withstand any constitutional attack made upon it (p. 105, serial M, pt. 2, hearings of May 5, 1924, 68th Cong., 1st sess.).

It might well be stated also that the Supreme Court in considering the Nebraska law approved by implication all the other features of bread laws except the particular tolerance of the Nebraska law.

At the hearing in the last Congress, in addition to the approval of the two departments of the Government, the committee received the written approval of the Bakers' Association of Ohio and also the approval of the Bakers' Association of Indiana in whose States similar laws have been in operation for several years. These associations realize the necessity of a law covering interstate traffic in bread.

At the hearing we also had the approval of the small bakers of the United States, representing some 26,000 establishments in the country, and the only element against the law were a few bakers who have branch baking establishments over the United States, and those bakers alone claimed the privilege of selling loaves of bread in interstate commerce of less than standard weight.

At the hearings we also had the approval of each of the three following railway organizations: The Brotherhood of Locomotive Firemen and Enginemen, the Brotherhood of Locomotive Engineers, and the Order of Railway Conductors. Also the American Farm Bureau Federation, the National Grange, and the Federation of Labor of Baltimore; also Mr. L. J. Taber, who administered the Ohio law for two years, reporting almost universal satisfaction in Ohio and also reporting that the cost of administering this kind of a law is practically nothing, as it administers itself; also the approval of Dr. Harvey W. Wiley, formerly Chief of the Bureau of Chemistry of the Department of Agriculture; also the approval of the Housekeepers' Alliance of Washington, D. C., who have experienced the advantages of the law in the District of Columbia passed by Congress to the same effect as the Federal bread act; also the Housewives' League of Baltimore, Md.; also the American Federation of Women's Clubs; also the Bureau of Home Economics of the Department of Agriculture; also the Bureau of Standards of

the Department of Commerce; also the superintendent of weights and measures for the District of Columbia, who has administered a similar law in the District of Columbia for three years with most satisfactory results; also the unanimous approval of the weights and measures officials of the United States in convention in Washington, May 26, 1924.

ARGUMENTS FOR THE BILL IN 1924

The value of the ingredients in a loaf of bread that sells generally over the United States for 8 to 9 cents in loaves from 14 to 16 ounces is the first consideration. There is about a cent and a half's worth of wheat in such a loaf of bread, when it is full weight, and when the wheat is converted into flour the cost of the flour is in the neighborhood of 2 cents when good grades of flour are used.

As evidence of this, the United States Government is baking bread for the Army, and they report the cost of all ingredients in a pound loaf of bread as low as a cent and three-quarters. The Shults Baking Co., of New York, claimed that the cost of all ingredients in a pound loaf of bread was 3.11 cents. This gives you the cost of the Army bread and also the cost claimed by one of the largest bakers in the country.

With the cost of the materials in a loaf of bread established by the above at from 2 to 3 cents for a pound loaf, and the selling price generally over the United States being from 8 to 9 cents a loaf, it seems perfectly clear that the consumers are entitled to full weight, and that is the purpose of the Federal bread act.

A survey has been made by the Bureau of Standards, through the weights and measures officials of the various States, to ascertain the amount of short-weight bread sold in the country, and we find that 11 States have standard weight laws, and that bread is sold in those States at full weight, and in all other States of the Union where the survey has been made there is evidence that the public is receiving less than full-weight bread.

There is also evidence that where short-weight bread is sold just as much is generally received for the bread as though it were full weight.

In Ohio, before the standard weight law was enacted, bread was being sold in from 12 to 14 ounce loaves at 8 cents, and after the enactment of the law the weight of the loaves was increased to 16 ounces without any change whatever in the price.

At the present time in New York City there is a great deal of bread sold in short-weight loaves and the price charged the public is exactly the same for short-weight loaves as in Ohio and Indiana, where the laws provide for full-weight bread.

It is estimated that the loss sustained by the people of New York City alone amounts to in the neighborhood of \$10,000,000 a year. The loss estimated by George M. Roberts, superintendent of weights and measures of the District of Columbia, on 2 ounces of bread in each of the loaves baked in the city of Washington if the loaves were 2 ounces short as they were before the law for the District of Columbia was passed, would amount to \$907,000 a year.

When you calculate a loss of 2 ounces of bread on the amount of bread baked in the United States by the public bakeries, you will find the enormous loss of \$200,000,000 a year.

To get at the details of this estimate, we might say, that the usual short weight is about 2 ounces, and 2 ounces of bread is worth to the consumer 1 cent, which, multiplied by the number of loaves baked, equals the \$200,000,000.

It is estimated that probably one-half the bread of the United States is not short weight, so that \$100,000,000 represents the loss to the consumers sustained because of the lack of standard-weight bread laws.

It is not argued that there is a gain to the bakers of that amount because we believe the bakers save only in the amount of ingredients they use. The cost of the overhead in a bakery, the cost of factory's expense, the cost of selling and delivering the bread is just as much for a 14-ounce loaf as for a 16-ounce loaf, and the gain to the baker is therefore simply the gain in the smaller use of material, and as the material is only about a quarter of the selling price of a loaf of bread, the gain, therefore, to the bakers of the United States is probably only about \$25,000,000 on account of bread being sold at less than standard weights.

This brings us face to face with the proposition of allowing the consumers to lose \$100,000,000 by means of short-weight bread in order that the bakers may have a gain of \$25,000,000.

It is interesting to note at this point that there is a loss in the sale of materials, such as wheat, lard, and milk used in bread on account of short-weight loaves. It is the experience in States where full-weight loaves are sold that just about as many loaves are sold, and if each loaf contains 12 per cent more material it is easy to calculate the additional use of wheat, lard, and milk that will be occasioned by the universal adoption of standard-weight bread.

The expense of enforcing a standard-weight bread law is an important matter. We have evidence in the States where these laws have been passed that such expense is almost nothing. This is explained by the fact that if one baker is forced to put up full-weight bread, that baker sees that his competitors do the same thing.

Further, the statement of the weight on each loaf required by law is evidence to both the retailer and to the consumer as to the amount of bread to which they are entitled.

The Federal bread act will cover bread in interstate traffic only, but the bakers of the United States admit that should a Federal bread law be passed it will be to their advantage to have each of the States pass a similar law where such laws have not already been passed.

Finally, it is admitted that more than three-fourths of the bakers of the United States have concluded that standard weight laws secure for them fair competition and also secure for the public fair treatment, and the few bakers who are left opposing such laws are gradually changing position in favor of the enactment of this measure.

The consumers of the United States, as near as we can learn from their organizations, are universally in favor of the enactment of this law.

NEW FACTS DEVELOPED AT 1926 HEARING

The State of New York has recently adopted a law providing for standard-weight loaves of bread, with the exception that the provisions of the law do not apply to loaves bearing the net weight thereon. This is the kind of bread law which the large bread interests recommend and have as many State legislatures adopt as possible. Before the law was passed in New York bread was selling in short-weight loaves at the same price as full-weight loaves were selling in Ohio and Indiana, and the passage of the law has not changed the situation in New York, as evidenced by the following telegrams. It is seen that the same price is charged in New York for a 13-ounce loaf as is charged in Ohio for a 16-ounce loaf. The New York law simply legalizes short-weight bread.

[Telegram]

COLUMBUS, OHIO, May 26, 1926.

CHARLES BRAND,

House of Representatives, Washington, D. C.:

Eight and nine cents for 16-ounce loaf. Twelve cents for 24-ounce are prevailing prices.

CHAS. V. TRUAX, *Director of Agriculture.*

[Telegram]

NEW YORK CITY, May 28, 1926.

BUREAU OF STANDARDS,

Washington, D. C.:

Average price average 13 ounces now 9 cents. Average price average 20 ounces now 12 cents.

JOS. P. MCKAY,

*Commissioner, Mayor's Bureau, Weights and Measures,
New York City.*

It is estimated that the loss to the people of the city of New York amounts to around \$15,000,000 a year.

The following letter from the Director of Weights and Measures of the District of Columbia shows that full-weight bread is selling for less in Washington than short-weight bread is selling in New York:

COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, May 29, 1926.

HON. CHARLES BRAND,

House of Representatives, Washington, D. C.

DEAR MR. BRAND: In response to your inquiry, beg to state that the prevailing retail price of bread in Washington at this time is 8 cents per loaf for the pound loaves and 12 cents for the one-and-a-half pound loaves.

The aforementioned prices include bread baked by the larger bakeries such as Corby Baking Co., Dorsch Baking Co., General Baking Co., Schneider Baking Co., Rice-Schmidt Baking Co., etc., and are based upon actual purchases made by representatives of the District weights and measures department of various retail stores during the past few days.

The District bread law has now been in effect since June, 1921. This office has kept as close watch as possible over the situation. Inspectors weigh some bread almost every day in the retail stores and an inspector is detailed from time to time to make unexpected visits to the bakeries for the purpose of weighing bread. It is quite unusual to find loaves which do not weigh within the legal tolerance of 10 per cent over or 4 per cent under the weight indicated on the labels and it has not been found necessary to institute many prosecutions. No violations of a very serious character have been found.

I have before me now a list of 1,777 pound loaves weighed in 44 bakeries in various sections of the city and the average weight of the product of each bakery is within the legal tolerance. Only now and then a few loaves were found which did not fully comply with the law, and those only by a shade.

I consider that the bread law here has been very beneficial in many respects. It has been a strong factor in eliminating unfair competition by requiring the production of loaves of uniform weight, has prevented the price being advanced in the old-fashioned way by reduction of the weight without the knowledge of consumers and has otherwise been a potent force in keeping the price within reasonable limits.

Yours respectfully,

GEO. M. ROBERTS,

Superintendent, Weights, Measures, and Markets, District of Columbia.

The author of the bill, Mr. Brand, had some correspondence with the President in January, 1925, regarding the administration of the proposed measure, and it was developed that the bread act might be administered without any additions to the staff now administering the pure food law. The letters are as follows:

THE WHITE HOUSE,

Washington, January 28, 1925.

MY DEAR MR. BRAND: The President has asked me to bring to your attention the accompanying copy of a communication from the Secretary of Commerce in regard to the short weight bread law. The memorandum prepared by Mr. Montgomery to which Secretary Hoover refers, is also inclosed.

Sincerely,

E. T. CLARKE,

Acting Secretary to the President.

DEPARTMENT OF COMMERCE,

Washington, January 27, 1925.

Hon. C. B. SLEMP,

The White House, Washington, D. C.

DEAR MR. SLEMP: I have your letter of January 22, inclosing a memorandum of the cost of administering short weight bread law.

I have taken the matter up with the chief of our foodstuffs division and send you herewith his memorandum.

HERBERT HOOVER.

JANUARY 24, 1925.

To: Mr. Stokes.

From: E. G. Montgomery.

Subject: Short weight bread law.

The inclosed note from Mr. Slem and memorandum refers to H. R. 8961 and special committee report 990.

The administration of this no doubt would be under the direction of the Bureau of Chemistry, Department of Agriculture, through the offices now administering the pure food law. These offices now check up weights, etc., on practically every food commodity moving in interstate trade.

The additional administration of standard bread weights could be handled by the present inspectors. I understand that no additional staff would be necessary for this specific purpose, but it would probably add slightly to the general expenses of their field offices and their inspection staffs. Mr. Hollingshead, who has had several years' experience as administrator in the Bureau of Chemistry, says it probably could be handled with little additional expense, as the inspectors now regularly visit grocery stores throughout the country to check up the weights of other commodities. The main item of expense would be in the case of bringing court procedure and for the keeping of additional clerical records. We have no way of ascertaining what this would amount to, but it would appear that a small additional appropriation for this purpose would be reasonable.

E. G. MONTGOMERY,

Chief, Foodstuffs Division.

AMENDMENTS

The committee amendment to exempt from the act special breads used as a diet by persons in ill health was adopted in order that no hardships might be imposed upon invalids in securing special breads which from their nature could not well be included in the provisions of the bill.

The committee adopted the amendment to strike out the words "by destruction or sale," in line 16, page 5, because it was deemed improper to specify that bread fit for food might be destroyed merely because it failed to comply with the regulations as to weight, etc. The amendment leaves it to the discretion of the court as to what disposition should be made of bread seized for a violation of the act.

MINORITY VIEWS

This bill is not in the interest of the public health, but is simply calculated to prevent the shipment in interstate commerce of loaves of bread that will not weigh a certain amount. A good many of the States now have laws providing that the bakers must stamp the weight of each loaf of bread thereon, and there are a good many laws to-day in the various States for the purpose of protecting the public against any fraud. This bill, however, does not do that; it simply makes the baker that ships in interstate commerce, bake a certain size loaf of bread.

Some of the proponents of the bill have the notion that the bakers will bake a pound loaf of bread, and sell it at the same price that they now charge for the smaller loaves. There is no apparent reason for that supposition, and apparently no reason in the world for the bill being passed, unless it is the disposition to have a new Federal law. In the hearings before the committee there was no dispute over the fact that if the baker were forced to prepare a larger loaf of bread he would have to charge more for it. It was admitted that the bread pans now in use would have to be destroyed, and new pans purchased if the bill were to become law.

The proponent of the bill disclosed before the committee that he had very little information concerning bread; said he did not know there was such a bread as "salt rising" bread, denied that there was such a bread, and had no information concerning the comparative sizes of pans for salt-rising bread and other bread. He did not know about the preparation of rye bread as contrasted with the preparation of other bread, and did not know that there were certain brands of bread shipped in interstate commerce used practically entirely for medicinal purposes. There is some reason for most bills suggested, either to protect the public health, or to prevent deception, or bad practices and fraud, but there is no reason in the world for this bill, except that the gentleman from Ohio (Mr. Brand) wants bread baked in certain size loaves. It is remarkable that several people have been fooled into indorsing the bill without stopping to think that if the loaves are larger they will naturally cost more.

Under the testimony introduced in favor of the bill there can be no legal reason, much less a sensible reason, for its passage.

J. B. ASWELL,
J. N. TINCHER.